

REMARKS

This responds to the Office Action mailed on December 31, 2007.

Claims 7, 18 and 26 are amended, no claims are canceled, and no claims are added; as a result, claims 1-27 remain pending in this application. Support for amendments may be found at least at paragraph 36 in the specification.

§101 Rejection of the Claims

Claims 20-27 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

It is submitted that "machine-readable medium" recited in claims 20-27 correspond to a computer-readable medium, as can be clearly seen from the diagrammatic representation of a machine illustrated in Fig. 13 and the associated description at paragraphs 75-77 of the specification. Pursuant to MPEP section 2106.01, when functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. It is thus, submitted that claims 20-27 are directed to statutory subject matter. It is respectfully requested that the rejection be withdrawn.

§112 Rejection of the Claims

Claims 7, 18 and 26 were rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness. Claims 7, 18 and 26 were amended. It is submitted that the objection has been overcome.

§102 Rejection of the Claims

Claims 1-2, 4-10, 12, 14-17 and 19-25 were rejected under 35 U.S.C. § 102(b) based upon a public use or sale of the invention. No evidence of public use or sale was provided with the Office action. The Office action discussed the rejections with reference to Hills (U.S. 6,164,528).

It is respectfully pointed out that the claims addressed in the rejection under § 102(b) do not correspond to the claims pending in this patent application. For instance, claim 1 of the current application reads as reproduced below.

1. A method to process a billing failure in a network-based commerce facility, the method including:

receiving a billing failure indicator from a billing facility, the billing failure indicator being associated with a transaction processing method utilized by a user when conducting a user transaction;

automatically without human intervention identifying at least one alternative transaction processing method that is valid for the user; and

automatically communicating the at least one alternative transaction processing method to an associated billing facility for billing.

The limitations of claim 1, as shown above, are not addressed in the Office action. It is submitted that Hills fails to disclose or suggest the elements of claims 1-2, 4-10, 12, 14-17 and 19-25. It is respectfully requested that the rejection be withdrawn.

§103 Rejection of the Claims

Claims 3, 11, 13 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hill in view of Wang (U.S.2003/0009423).

The claims addressed in the rejection under § 103(a) do not correspond to the claims pending in this patent application. For example, claim 3 of the current application reads as reproduced below.

3. The method of claim 1, wherein identifying the at least one alternative transaction processing method includes generating a reliability score value utilizing user information, and selecting a transaction processing method that includes favorable reliability score.

The limitations of claim 3, as shown above, are not addressed in the Office action. It is submitted that the combination of Hills and Wang fails to disclose or suggest the elements of claims 3, 11, 13 and 18. It is respectfully requested that the rejection be withdrawn.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at 408-278-4041 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 2nd day of June 2008.

Dawn R. Shaw

Name

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Signature